IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B.CRIMINAL MISC. PETITION NO. 782/2005
(Nand Ram & Anr. Vs. State of Rajasthan & Anr.)

Date of Order : 02/08/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Pritam Solanki for the petitioners.
Mr. Ashok Upadhyay, public prosecutor.
Mr. R.C.Joshi for the non-petitioner No.2.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioners have assailed the order dated 18.1.2005 passed by Additional Sessions Judge, Nohar, district Hanumangarh (for short 'the revisional court' hereinafter) in Criminal Revision No.46/2004 whereby the revision petition filed by the petitioners against the order dated 03.04.2001 passed by Judicial Magistrate (First Class), Nohar (for short 'the trial court' hereinafter) was dismissed.

I have heard learned counsel for the parties. Carefully gone through the orders of the revisional court and the trial court.

On a complaint filed by non-petitioner No.2 before the trial court, it was sent for investigation to the police under Section 156 (3) Cr.P.C. The police registered a Crime Report No.45/99 and investigated the matter. After investigation, the police filed a negative final report. On a notice to the complainant non-petitioner No.2, he filed a protest petition and protested the negative final report as also produced the evidence. The complainant got examined himself as AW-1 and produced AW-2 Krishan Kumar, AW-3 Mamraj, AW-4 Mishraram and AW-5 Bannaram. The trial court after examining the statements of these witnesses recorded by it on oath and finding corroboration from the statements recorded by the police under Section 161 Cr.P.C., prima-facie came to the conclusion that from the material on record, prima-facie the offences under Section 341 IPC and Section 3 (1) (x) of the SC/ST (Prevention of Atrocities) Act, 1989 are made out against the petitioners and accordingly took the cognizance of the offences and issued the process. That order came to be challenged by the petitioners before the revisional court. The revisional court considering the entire material on record by an elaborate and well reasoned order came to the conclusion that the order of the trial court does not suffer from any infirmity, illegality or perversity and accordingly dismissed the revision petition.

It is contended by learned counsel for the petitioners that earlier also on a report filed by non-petitioner No.2, the petitioners were convicted, however, instead of sentencing the petitioners at once to any imprisonment, they were released on probation and by the instant criminal case, the complainant wishes that the benefit of probation granted in favour of the petitioner in a previous case be cancelled.

On careful perusal of the statements of the witnesses, as also the orders passed by the courts below, in my view, the contention raised by the counsel for the petitioners cannot be accepted. According to counsel for the petitioners, earlier also on a report filed by the non-petitioner No.2, a case was instituted in which after due trial, the petitioners were found guilty and accordingly they were convicted, however, the trial court took lenient view and instead of sentencing the petitioners at once to any imprisonment released them on probation. This clearly goes to show that not only in earlier occurrence but it appears that in subsequent occurrence also, from the statements of witnesses it is prima-facie established that the petitioners have committed the offences for which the trial court took the cognizance. In the circumstances, therefore, I do not find any error, illegality or perversity in the orders impugned.

The criminal misc. petition has no force and is therefore dismissed. The interim stay order dated 28.9.2005 is vacated and stay petition stands dismissed.

(H.R.PANWAR),J.

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